

Re St Mary, Roughton

Judgment

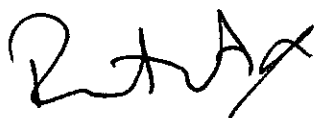
1. By way of a petition received at the Registry 3 October 2016 Mr Jack Jermy seeks a confirmatory faculty allowing the retention of gravel and edging on the grave of his late wife, Mrs Marjorie Christian Jermy.
2. Mrs Jermy died in early 2015 and was buried in the north west part of the churchyard of St Mary, Roughton on 27 February of that year. In the months immediately following the interment Mr Jermy explains that he became distressed by the weeds and long grass in the area of the grave. Mr Jermy is in his nineties and suffers with a broken hip and as such had found it difficult to tend the grave in the way he would have liked. At Mr Jermy's request, his nephew cleared the area over the grave, laid pea gravel over a membrane and lined the area with a metal edging to keep the gravel in place. Mr Jermy accepts that before undertaking this work he and his nephew read the Diocesan Churchyard Regulations and noted that chippings were not permitted "as these create difficulty or danger when mowing". He states that they took the view that, as the gravel was separated from the grass by edging, it would not cause any such difficulty and went on to undertake the work to his wife's grave.
3. The introduction of the edging and gravel was noticed by the incumbent and she first wrote to and later met with him about the need to remove them as they had been introduced without permission. Mr Jermy does not wish to remove the edging and gravel and as such has made this application for a confirmatory faculty allowing them to remain in place over his wife's grave. He points out that there are no unseemly mementoes or objects around the grave and that the gravel is "in harmony with the church". He offers a pledge to ensure that the edges of the grave are trimmed monthly by his nephew during the summer months to limit maintenance difficulties.
4. When I received this petition I directed that the DAC's advice should be sought along with the views of the incumbent, the churchwardens and the PCC. The DAC did not recommend the works, stating:

"Members felt strongly that the grave contravenes Churchyard Regulations and that the edging and chippings should be removed."
5. The PCC reviewed the application at its meeting on 31 October 2016 and concluded that it could not support the retention of the edging and gravel for the following reasons:

- a. It is already clear that the additions mean that it will no longer be effective to use a mower to keep the grass surrounding the grave tidy; a strimmer cannot now be used in the alternative without constituting a danger because of flying gravel. Although it acknowledges the commitment of Mr Jermy's nephew to keep the grave tidy in the summer months, it is said that the time will come when he is no longer able to do this.
 - b. The rules prohibiting the introduction of kerbs and chippings are in place for good reason, namely to make the upkeep of the churchyard as easy as possible given that it is a considerable burden on limited PCC funds.
 - c. The retention of the gravel and edgings would set a dangerous precedent for other relatives who might wish to do the same thing.
 - d. This churchyard is maintained as a conservation area and the introduction of artificial materials such as painted metal kerbs, artificial membrane and gravel is not in keeping with the aesthetic appearance of the churchyard.
6. And so I turn to the question of whether to grant a confirmatory faculty permitting the edging and gravel to remain in place. It is unfortunate that these items were introduced without seeking permission, and therefore illegally. That is especially so when Mr Jermy frankly accepts that he had read the Churchyard Regulations, understood that chippings were not permitted and nevertheless decided that that prohibition did not apply in this case. The Churchyard Regulations 2016 clearly state at paragraph 11:
- "For the avoidance of doubt, the following are not permitted:
11.1 Kerbs, railings, fencing or chippings as these create difficulty or danger when mowing;"
- The wording is not ambiguous and when Mr Jermy noticed that prohibition he should, at the very least, have had a conversation with the incumbent or a churchwarden about his intentions. That would have clarified the position and prevented the upset, delay and expense which have been occasioned by the need for these proceedings.
7. There are limitations on what is permissible in a churchyard for good reason. Incumbents are but the temporary custodians of the land which has served and will serve for centuries the parish to which it belongs as a place of peaceful reflection and prayer. Responsibility for the care and maintenance rests with the PCC. To use the words of the Churchyard Regulations:
- "Churchyards are an important part of local and national heritage in the communities they serve: a place for reflection and prayer, an historic record of successive generations, a home for funerary monuments of architectural and aesthetic excellence and a setting for the church itself...In addition, the upkeep of a churchyard is a considerable burden upon the limited resources of PCC funds."
- In the case of chippings and kerbs (for Mr Jermy's painted metal edging amounts to kerbing for these purposes), these are prohibited in order

to ensure the maintenance of the churchyard can undertaken in a safe and efficient manner. I accept (indeed it is clear from the photograph provided) what the PCC says about the additional difficulties in maintenance created by the changes to Mrs Jermy's grave.

8. Mr Jermy makes a clear pledge to be responsible for the maintenance of his late wife's grave and as such it could be argued that any additional burden will be discharged in that way. Nevertheless, if others seek the same privilege in future, as they are likely to do, the parish will be faced with the stark choice between allowing further sets of kerbs and chippings or creating a sense of unfairness and inequality in refusing to support such applications. The pastoral difficulties caused by this at a time when the church should be offering support to grieving families is manifest. I am mindful not only of the real risk that others may seek to introduce kerbing or gravel in the future, but also of those who have already been informed that such provision is not allowed. There must be a sensitivity to the way in which churchyards are managed and it is likely that a real and legitimate sense of injustice would also be engendered in the families who have already been refused permission to introduce kerbs or chippings at their loved ones' graves if Mr Jermy's application is granted.
9. In light of all of the above I must refuse Mr Jermy's application. I understand his desire to ensure that his wife's grave is properly tended. I am told that the churchyard is mown and strimmed fortnightly in the summer months and certainly the photograph he has provided suggests a well tended area, but if the maintenance provided is not thought adequate then Mr Jermy's nephew may, of course, tend the grass and any weeds at the site of the grave as he has offered.
10. The effect of this decision is that the edging and gravel installed over Mrs Jermy's grave must be removed and the area above the grave relaid to grass. Mr Jermy may make arrangements for this to take place, but if it has not been done within three months then the churchwardens may undertake those works. If Mr Jermy wishes to have the edging and gravel returned to him he must make arrangements for their collection within a month of their removal from the churchyard.
11. I hope that upon the conclusion of this matter, albeit in a manner which will be disappointing for him, Mr Jermy will find some comfort in the assurance that his wife has been trusted into the safety of God's hands in the hope of future resurrection.



The Worshipful Ruth Arlow
Chancellor of the Diocese of Norwich

23 January 2017